

¹ 5 U.S.C. § 8101 *et seq.*

of her neck as a result of lifting a distressed patient from an ultrasound table while in the performance of duty. She explained in an August 31, 2017 statement that there had been no other staff available to assist her with lifting the patient. Appellant stopped work on August 15, 2017 and returned to work on August 22, 2017. The employing establishment contended that she had violated established procedures as she had failed to request help with moving the patient.

Ellen D. Zurawski, a physician assistant, held appellant off work for the period August 15 to 18, 2017. Dr. Clifford N. Alprin, a Board-certified family practitioner, held appellant off work for the period August 25 through September 3, 2017. He noted work restrictions.

In a development letter dated January 10, 2018, OWCP informed appellant that she had not submitted sufficient factual or medical evidence to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the information. Appellant did not respond.

By decision dated February 13, 2018, OWCP denied appellant's claim finding that she had not submitted sufficient evidence to establish a diagnosed condition causally related to the accepted August 15, 2017 employment incident. It concluded that the requirements had not been met to establish an injury as defined by FECA.

In a letter postmarked March 15, 2018 and received by OWCP on March 23, 2018, appellant requested a review of the written record by an OWCP hearing representative. She submitted additional evidence.

In an August 25, 2017 report, Sarah Brown, a physician assistant, diagnosed neck pain after lifting a heavy patient.

In reports dated from October 12, 2017 to February 1, 2018, Dr. Alprin diagnosed a neck spasm/strain with right-sided cervical radiculopathy. In March 8, 2018 reports, he noted that, on August 15, 2017, appellant had lifted a patient off an ultrasound table while at work and experienced the onset of right-sided neck pain with numbness into the right upper extremity. Appellant had returned to work on August 25, 2017, but continued to experience residual pain, stiffness, and muscle spasm in her neck. Dr. Alprin diagnosed cervical spondylosis, cervical radiculopathy, and cervical muscle spasms.

By decision dated June 26, 2018, an OWCP hearing representative affirmed the February 13, 2018 decision. The hearing representative found that, although the additional medical evidence contained diagnoses and a history of injury, there was no medical rationale to establish that the August 15, 2017 employment incident had caused the diagnosed conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable

time limitation period of FECA,² that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.⁵ First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷ Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the accepted employment incident.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident identified by the employee.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a cervical spine condition causally related to the accepted August 15, 2017 employment incident.

Appellant submitted a series of reports from Dr. Alprin noting the accepted August 15, 2017 employment incident and diagnosing cervical conditions. The Board has held that a medical

² *C.B.*, Docket No. 18-0071 (issued May 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *C.B.*, *supra* note 2; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁶ *C.B.*, *supra* note 2; *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *C.B.*, *supra* note 2; *Y.J.*, Docket No. 18-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-156 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

⁹ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹⁰ *C.B.*, *supra* note 2; *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition was related to employment factors.¹¹ As none of Dr. Alprin's reports provided medical rationale as to the cause of appellant's diagnosed conditions they are insufficient to establish her claim.

Appellant also submitted reports signed solely by Ms. Zurawski or Ms. Brown, both physician assistants. These reports do not constitute competent medical evidence because a physician assistant is not considered a "physician" as defined under FECA.¹² Under FECA the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable state law.¹³ Consequently, the medical findings and/or opinions of a physician assistant will not suffice for purposes of establishing entitlement to compensation benefits.¹⁴

As appellant has not submitted rationalized medical evidence to support her claim that she sustained a cervical spine injury causally related to the accepted employment incident of August 15, 2017, the Board finds that she has not met her burden of proof.¹⁵

On appeal appellant argues that she submitted sufficient evidence to establish a causal relationship between the accepted August 15, 2017 employment incident and her diagnosed cervical spine condition. For the reasons set forth above, she has not met her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a cervical spine condition causally related to the accepted August 15, 2017 employment incident.

¹¹ *C.B.*, *supra* note 2; *see Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹² *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

¹³ 5 U.S.C. § 8101(2).

¹⁴ *K.W.*, *supra* note 12.

¹⁵ *C.B.*, *supra* note 2.

ORDER

IT IS HEREBY ORDERED THAT the June 26, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 8, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board